

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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EDWARD CARTER, FRANK FIORILLO, KEVIN
LAMM, JOSEPH NOFI, and THOMAS SNYDER,

Plaintiffs,

v.

INCORPORATED VILLAGE OF OCEAN BEACH;
MAYOR JOSEPH C. LOEFFLER, JR., individually
and in his official capacity; former mayor NATALIE K.
ROGERS, individually and in her official capacity;
OCEAN BEACH POLICE DEPARTMENT; ACTING
DEPUTY POLICE CHIEF GEORGE B. HESSE,
individually and in his official capacity; SUFFOLK
COUNTY; SUFFOLK COUNTY POLICE
DEPARTMENT; SUFFOLK COUNTY DEPARTMENT
OF CIVIL SERVICE; and ALISON SANCHEZ,
individually and in her official capacity,

Defendants.
-----X

Case No. 07 CV 1215 (SJF)(ETB)

AFFIDAVIT OF KEVIN LAMM IN SUPPORT OF PLAINTIFFS'
RULE 56.1 COUNTER-STATEMENTS OF MATERIAL FACTS IN DISPUTE

STATE OF NEW YORK)
)ss.:
COUNTY OF SUFFOLK)

I, Kevin Lamm, hereby declare and state:

1. I am a Plaintiff in the above-captioned matter, and have brought this action against the Incorporated Village of Ocean Beach ("Ocean Beach"), certain of its officials (collectively, "Ocean Beach Defendants"), Suffolk County, Suffolk County Department of Civil Service and one of its officials (collectively, "County Defendants") (all Defendants, collectively, "Defendants"), for the unlawful termination of my employment as an Ocean Beach Police Officer on April 2, 2006, and for events related to my termination, including

Defendants' defamation and retaliation against me.

2. In addition to the facts attested to in my deposition, the following is additional information concerning my employment with the Ocean Beach Defendants and termination from my position as an Ocean Beach Police Officer with the Ocean Beach Police Department ("OBPD").

3. During my employment with Ocean Beach, I expressed opposition to conduct of Ocean Beach employees and officials that I believed to be unlawful, corrupt, and/or improper, out of concern for the public and residents of Ocean Beach, as well as for myself and my fellow officers. In doing so, I acted as a concerned private citizen, knowing that it was not part of my duties as an Ocean Beach Police Officer to express opposition to such conduct.

4. I voiced my opposition to the employment of OBPD Officers who were not certified by Suffolk County Civil Service to work as Police Officers in Ocean Beach and did not know Ocean Beach and Suffolk County emergency police radio codes, which created a threat to public safety and to the safety of fellow OBPD Officers.

5. I voiced my opposition to OBPD Officers drinking on duty, including in local bars and in the OBPD station.

6. I voiced my opposition to being forced to leave Ocean Beach short-staffed when I was required to chauffeur intoxicated, uncertified OBPD Officers.

7. I voiced my opposition to uncertified OBPD Officers drinking and driving in OBPD vehicles.

8. I voiced my opposition to OBPD Officers' failure to properly secure firearms.

9. I voiced my opposition to Defendant Hesse's cover-up of assault against

civilians by an uncertified OBPD Officer in an Ocean Beach bar on the night of Halloween 2004.

10. Throughout my employment as an OBPD Officer, I regularly discussed the opposition to unlawful conduct and threats to public safety that I voiced with fellow OBPD Officers Joe Nofi, Frank Fiorillo, Ed Carter and Tom Snyder, who are also Plaintiffs in this case. These Officers would, in turn, routinely inform me when they voiced similar opposition to Ocean Beach officials and authorities.

11. During my employment as an Ocean Beach Police Officer, I heard Defendant Hesse and other OBPD Officers refer to Defendant Loeffler as the "Ocean Beach Police Liaison" on numerous occasions.

12. During my employment as an Ocean Beach Police Officer, Defendant Hesse provided Ocean Beach Police Department business cards to my fellow officers. However, the Ocean Beach Police Department business cards that Defendant Hesse provided to me identified me as "Kevin Lambo" and my position title as "Gay Police Officer." Defendant Hesse handed these business cards to me to disparage and embarrass me.

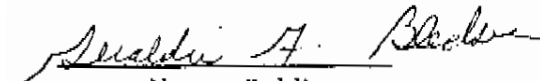
13. When Defendant Hesse terminated my employment on April 2, 2006, he claimed that he had to fire ten OBPD Officers due to budget cuts. Defendant Hesse also stated to me that "you aren't what I'm looking for" because I wrote "too many summonses" and he wanted to make Ocean Beach into a "kinder and gentler" place.

14. Subsequent to April 2, 2006, I had several telephone conversations with Chris Moran, a dock master at Ocean Beach who had attended the April 2, 2006 pre-season meeting that took place immediately after Defendant Hesse terminated my employment. I tape-recorded these conversations so that I could have proof of what Defendant Hesse said

to Chris Moran and other officers and dock masters who attended the meeting about my termination, because I suspected that Chris Moran and Defendant Hesse might later deny that Defendant Hesse made such statements. Transcripts from two excerpts of these conversations are attached as exhibits in opposition to Defendants' motion for summary judgment, and are labeled as "Track 3" and "Track 4," respectively.


KEVIN LAMM

Sworn to before me this
29th day of December 2009


Notary Public

GERALDINE A. BLEDSOE
Notary Public, State of New York
No. 4909563
Qualified in Suffolk County
Certificate Filed in Suffolk County
Commission Expires Oct. 19, 2013